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10/577,023

04/24/2006

Dieter Ramsauer

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10/28/2008

REED SMITH, LLP

ATTN: PATENT RECORDS DEPARTMENT

599 LEXINGTON AVENUE, 29TH FLOOR

NEW YORK, NY 10022-7650

EXAMINER

LUGO, CARLOS

ART UNIT

PAPER NUMBER

3673

MAIL DATE

DELIVERY MODE

10/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/577,023 | Applicant(s) RAMSAUER, DIETER | |
| | Examiner CARLOS LUGO | Art Unit 3673 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36,38-41,43-67,69 and 70 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 36,38-41,52-55 and 62-67 is/are allowed.
- 6) ☒ Claim(s) 43-51,56-61,69 and 70 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 April 2006 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on July 14, 2008.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 43-51, 56-61, 69 and 70 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

First, the claims are generally narrative and indefinite, failing to conform to current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Second, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Third, the current language of the claims makes unclear if the applicant is trying to claim the snap fastening with the structure where is going to be used or just the snap fitting. Therefore, in order to continue with the examination, a broad interpretation would be given.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3673

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 43-46, 50, 51, and 56-61 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 1,426,239 to Witzberger in view of US Pat No 1,298,266 to Vaudreuil.

Witzberger discloses a snap fastener comprising a housing or base portion (1) that encloses pushing or holding elements (2) biased by a spring member (3).

Witzberger fails to disclose that the elements are pushed against the spring biasing by means of an actuator.

Vaudreuil teaches that the concept of providing a knob (13) to move a pushing or holding element (8) against the biasing force of a spring (5) is well known in the art.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the fastener described by Witzberger with a rotary knob, as taught by Vaudreuil, in order to disengage the fastener from the structure where is placed.

As to the different shapes of the holding or pushing elements claimed and the housing shape, applicant is reminded that a change in the shape of a prior art device is a design consideration within the level of skill of one skilled in the art.

6. **Claim 47-49 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 1,426,239 to Witzberger in view of US Pat No 1,298,266 to Vaudreuil as applied to claim 43 above, and further in view of US Pat No 2,772,809 to Ross and in view of US Pat No 6,755,302 to Streich et al (Streich).

Art Unit: 3673

Witzberger, as modified by Vaudreuil, fails to disclose the use of markings for indicate operation.

Ross teaches that in the art of latches, the use of markings (Figure 1) to indicate operational direction is well known in the art.

Streich teaches that in the art of latches, the use of colors to indicate operation is well known in the art (Col. 5 Lines 20-28).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the fastener described by Witzberger, as modified by Vaudreuil, with operational markings, as taught by Ross and Streich, in order to help the user in how the device is operated.

7. Claims 69 and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat No 450,870 to Oldenbusch.

Oldenbusch discloses a snap fastener comprising a housing or base portion (C) that encloses pushing or holding pivotable elements (E) biased by a spring member (D).

However, Oldenbusch fails to disclose that the snap fastener is adapted to be fixed to a thin wall. Oldenbusch discloses that the fastener is used on a swingable member of a bag.

However, applicant is reminded that a recitation with respect to the manner in which an apparatus is intended to be employed does not impose any structural limitation upon the claimed apparatus, which differentiates it from a prior art reference disclosing the structural limitations of the claim.

Allowable Subject Matter

8. **Claims 36, 38-41, 52-56, and 62-67 are allowed.**

Response to Arguments

9. After further, review, the previous election restriction has been withdrawn. Therefore, a new non-final rejection has been made on the record. Further, the claims presents similar 112 indefinites as the ones previously presented in the set of claims previously considered. Appropriate correction is required.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARLOS LUGO whose telephone number is (571)272-7058. The examiner can normally be reached on 10-7pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the

Art Unit: 3673

automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carlos Lugo/
Primary Examiner
Art Unit 3673

October 24, 2008.